

STATEMENT OF WHY THE UNITED STATES-MOROCCO FREE TRADE AGREEMENT IS IN THE INTERESTS OF U.S. COMMERCE

INTRODUCTION

President Bush announced the U.S. government's intention to negotiate a free trade agreement with the Kingdom of Morocco on April 23, 2002. Negotiations began in January 2003 and were concluded one year later. Following required consultation periods under the Trade Act of 2002, the United States-Morocco Free Trade Agreement ("FTA" or "Agreement") was signed on June 15, 2004. This comprehensive Agreement furthers U.S. commercial interests, provides increased opportunities for U.S. exporters, and is clearly in the interests of U.S. commerce.

Key provisions of the Agreement provide for:

- **Tariff elimination.** Tariffs on 95 percent of two-way trade in industrial and consumer goods will be eliminated immediately.
- **Services sector openings.** U.S. service providers, including banks and insurance companies, will receive, with few specific exceptions, treatment equal to that accorded Moroccan companies.
- **Agricultural market access.** U.S. farmers and ranchers, including poultry farmers, cattle producers, and wheat farmers, will have increased access to Morocco's markets.
- **Enhanced intellectual property rights protection.** Morocco will provide U.S. copyright, patent, and trademark owners stronger protection and more effective enforcement of intellectual property rights ("IPR").
- **Transparency measures.** Morocco's government will publish its laws and regulations concerning matters covered by the Agreement, as well as allow public comment.
- **Customs cooperation.** U.S. companies can expect faster customs processing for their goods.

In addition, the Agreement addresses non-tariff barriers in Morocco, which are as important to U.S. industry as tariff liberalization in attaining market access. Moreover, the regular trade dialogue mandated under the Agreement presents U.S. industry with a useful forum for addressing non-tariff barrier issues as they may arise.

The 75-member private sector U.S.-Morocco FTA Coalition, chaired by Time Warner Inc. and CMS Energy, describes the FTA as an "important and historic agreement [that] will strengthen and expand our bilateral economic and trade relationship."¹

¹ U.S.-Morocco FTA Coalition News Release (March 2, 2004)

WHY MOROCCO?

The U.S. private sector supports the Agreement because it: (1) evens the playing field with their European competitors; (2) expands market access; (3) bolsters economic reforms already underway in Morocco; (4) builds on a long history of close U.S.-Moroccan relations; (5) promotes jobs, democracy, and stability; and (6) furthers President Bush's goal of a broader United States-Middle East Free Trade Area ("MEFTA") by 2013.

The Agreement reinforces many of the economic reforms undertaken by Morocco in the past five years. Morocco has already begun to liberalize its telecommunications sector, reform its audiovisual industry, modernize its financial sector, reform its labor laws, and enact strong legislation to protect IPR. Other countries, including those in the Middle East who are also interested in free trade agreements with the United States, are looking at the Agreement as an example for their own economic restructuring and development.

In addition to the benefits to the United States, the Agreement will promote growth, stability, and democracy in Morocco. The Moroccan government has stated that economic reform and job creation are top priorities and this Agreement will create opportunities for new U.S.-Moroccan business partnerships that can, in turn, spur Moroccan economic growth. Finally, increased trade will support Morocco's move toward greater democracy.

The European Union-Morocco Mutual Association Agreement

The European Union ("EU") and Morocco implemented a free trade agreement (Association Agreement) in March 2000. Over the last 10 years, EU exports to Morocco have doubled, to nearly \$8 billion.² By contrast, the United States sent only \$465 million in exports to Morocco in 2003.³ In the past, European goods accounted for nearly 60 percent of Morocco's imports, while U.S. goods accounted for less than 6 percent.⁴ Where European exports face rapidly diminishing tariffs in Morocco, U.S. non-textile industrial goods still face average tariffs of 28.3 percent in Morocco, with rates as high as 50 percent on important U.S. exports such as paper and pesticides.⁵ The Agreement will level the playing field for U.S. companies vis-à-vis their European competitors and help increase U.S. market share in the North African market.

The Agreement is comprehensive; it includes services and investments as well as goods and commodities. For all service providers, this means that existing barriers to services trade (*i.e.*, capital requirements and regulatory frameworks) have been made transparent, been decreased, or will be phased-out completely. By contrast, the EU-Morocco Association Agreement contains more limited, less comprehensive services commitments and does not contain the high-standard investment protections that build on our Bilateral

² European Union's Commission on External Relations

³ U.S. Census Bureau

⁴ American Chamber of Commerce (November 2002)

⁵ U.S. Department of Commerce, Office of Trade and Economic Analysis

Investment Treaty (“BIT”) signed in 1985, which are available to U.S. investors under the Agreement.⁶

Middle East Free Trade Area

Morocco is a vital component of the larger plan for a MEFTA. As announced by President Bush in May 2003, MEFTA reflects the U.S. government’s long-term commitment to promoting economic growth, expanding opportunities, and ensuring stability in the region. The region-wide FTA, to be completed by 2013, will provide new export opportunities to U.S. farmers, ranchers, and manufacturers. Jordan and Israel are already U.S. free trade agreement partners and negotiations have concluded with Bahrain.

BEST PROSPECTS FOR U.S. COMPANIES – (NON-TEXTILE INDUSTRIAL GOODS)

The Agreement will dramatically increase market access opportunities in Morocco for U.S. manufacturers. Under the Agreement, Morocco will immediately eliminate tariffs on 92 percent of U.S. non-textile industrial and consumer goods – a record for an agreement signed with a developing country free trade agreement partner.⁷ Morocco is the United States’ ninth largest goods trading partner on the African continent, with \$958 million in two-way trade in 2002.⁸ Civil aircraft, chemicals, information technology, and energy products make up the largest U.S. exports to Morocco. Small and medium-sized enterprises (“SMEs”) comprise more than 97 percent of U.S. exporters and will benefit just as much as – if not more than – their larger brethren under the Agreement. The Agreement provides new opportunities for trade in goods in the following non-textile industrial sectors:

Automobiles and Automotive Parts

U.S. auto and auto parts exports to Morocco are modest but growing in volume. The number of personal vehicles in Morocco has doubled in the last ten years, from 900,000 to 1.8 million.⁹ The Moroccan government has identified auto manufacturing as one of the country’s highest priority sectors. Morocco plans to more than double automobile production, to 100,000 vehicles, in the next five years, increasing Moroccan demand for the raw materials needed for auto manufacturing, which should benefit U.S. auto parts exporters.¹⁰ Morocco currently imposes an average duty of 32 percent on auto parts imports.¹¹ Tariffs on 56 percent of U.S. auto parts exports will be eliminated

⁶ The EU agreement focuses on Morocco’s GATS commitments, which, according to Bernard Hoekman, comprise 7 percent of all possible WTO GATS services commitments. (See “An Assessment of the General Agreement on Trade in Services,” in Will Martin and L. Alan Winters (eds.), *The Uruguay Round and the Developing Economies*, 1996.)

⁷ U.S. Department of Commerce, Office of Trade and Economic Analysis

⁸ U.S. Census Bureau

⁹ Moroccan Association for Automotive Industry and Trade

¹⁰ Moroccan Association for Automotive Industry and Trade

¹¹ U.S. Department of Commerce, Office of Trade and Economic Analysis

immediately; the rest will be eliminated within nine years (with the exception of tariffs on used tires, which will be eliminated within ten years.)

Environmental Technologies (Goods and Services)

USAID reports that 84 percent of Morocco's annual water usage is devoted to crop irrigation.¹² Drip, center-pivot, and other modern irrigation technologies are not widely used in Morocco; water efficiency is currently about 50 percent. U.S. equipment and technology can help Moroccan farmers reach 95 percent water efficiency levels. The Agreement presents a unique opportunity for U.S. irrigation companies to export technology and equipment. Bilateral environmental cooperation, as outlined in the Agreement's environmental chapter, will further expose Morocco to U.S. technology and expertise and create opportunities for U.S. firms that manufacture environment-related equipment, such as pollution abatement devices. U.S. Environmental Protection Agency officials have already initiated a number of environmental technical assistance programs with their Moroccan counterparts in anticipation of the Agreement.

Building Products

U.S. companies have traditionally faced high tariffs, averaging 38 percent, on construction materials exports to Morocco.¹³ The Agreement eliminates all tariffs on these products within nine years. Morocco has initiated a series of ambitious infrastructure projects that will involve construction activity. In 2002, for example, the Moroccan government launched 49 projects (valued at \$800 million) that include tourism, housing, and highway projects.¹⁴

Construction of residential housing in Morocco increased steadily during the last five years, but there is still a large unmet demand, especially in the urban areas. With 57 percent of Morocco's 30 million inhabitants living in urban areas and demographic growth exceeding 2.5 percent per year, inadequate or illegal housing and shantytowns that lack basic amenities continue to increase and exceed 23 percent of the total urban housing.¹⁵

Under its 2000-2004 Economic and Social Development Plan, the Ministry of Housing and Urbanism plans to build approximately 143,000 new houses per year. It is estimated that Morocco needs to increase that number four-fold in order to meet the demand by 2014.¹⁶ Morocco has launched the 200,000 Dwellings Program, which grants tax incentives to developers that commit to a minimum of 3,500 low-cost housing units. Since its inauguration in 1994, local competition has increased and foreign firms are now

¹² USAID report, "Water Resources and Implementation of the Morocco-United States Free Trade Agreement" (April 2003)

¹³ U.S. Department of Commerce, Office of Trade and Economic Analysis

¹⁴ U.S. Foreign Commercial Service Casablanca

¹⁵ U.S. Foreign Commercial Service Casablanca

¹⁶ U.S. Foreign Commercial Service Casablanca

entering this market, making property more accessible to low- and mid-range income households.

The building industry in Morocco consists of a few large contractors and a myriad of small companies and subcontractors. U.S. firms will likely find excellent opportunities when offering safe and fast building methods.

Chemicals

Under the Agreement, Morocco will immediately eliminate tariffs on 69 percent of the chemicals it imports from the United States. Chemicals account for approximately 8 percent of U.S. exports to Morocco, totaling \$29 million. Morocco's substantial tariff reductions, streamlined customs commitments, and stronger investment protections – all results of the Agreement – promise significant benefits for the U.S. chemical industry, which supports the Agreement.¹⁷

Civil Aircraft

Royal Air Maroc (“RAM”) is one of the best customers in the developing world for U.S. aircraft manufacturers. RAM bought 21 U.S.-made aircraft and leased 2 additional U.S. airplanes in 2001 to supplement its almost entirely U.S.-made fleet. RAM's increasingly large fleet will require new products, parts, and servicing.¹⁸ U.S. aviation-related manufacturers currently face average duties of 26 percent and U.S. companies stand to benefit greatly from tariff elimination on 96 percent of U.S. civil aircraft exports. European aircraft manufacturers are applying strong pressure on RAM to shift to European-made vessels. RAM's ability to import duty-free goods from the United States will only strengthen the U.S. position.

Consumer Goods

U.S. consumer goods manufacturers are currently at a disadvantage when competing with their European counterparts. U.S. firms have faced average 35 percent duties on consumer goods they export to Morocco. The Agreement will put U.S. companies on an equal footing with European competitors. Under the Agreement, 64 percent of U.S. consumer good exports become duty-free upon implementation.¹⁹ U.S. consumer goods manufacturers state that they “believe the agreement will deliver important benefits to consumer goods firms in terms of market access, regulatory transparency, and customs procedures.”²⁰

¹⁷ ISAC-3 Report to the President, the Congress, and USTR on the U.S.-Morocco FTA (April 2004)

¹⁸ U.S. Department of Commerce, Office of Trade and Economic Analysis

¹⁹ U.S. Department of Commerce, Office of Trade and Economic Analysis

²⁰ ISAC-4 Report to the President, the Congress, and USTR on the U.S.-Morocco FTA (April 2004)

Construction Equipment

Over the past five years, the United States has run a relatively large trade surplus in the construction equipment sector, exporting \$13 million in such goods in 2003. U.S. companies stand to gain new export opportunities, resulting from immediate tariff elimination on 94 percent of U.S. construction equipment exports.²¹

Forest and Paper Products

The forest products sector covers wood, wood fiber, manufactured pulp, paper, paperboard products (from virgin and recycled fiber), and engineered and traditional woods. The paper and products industry says the Agreement “will advance the economic interests of the United States and Morocco.”²² Morocco levies duties ranging from zero to 50 percent, with an average of 39 percent on U.S. paper products.²³ Under the Agreement, these duties will be eliminated within nine years.

Information Technology (“IT”)

Morocco will join the WTO’s Information Technology Agreement (“ITA”), which requires members to eliminate duties on computers, software, electronic components, cables, and other technologies used in business. U.S. IT companies will immediately see increased market opportunities in Morocco as a result. Under the ITA, Morocco will phase out tariffs on all but a handful of IT products within six years. The Agreement locks in immediate tariff elimination on 93 percent of current U.S. IT exports.

Pharmaceuticals

Under the Agreement, the U.S. pharmaceutical industry expects increased opportunities – similar to those seen under the United States-Jordan Free Trade Agreement. In 2003, U.S. pharmaceutical preparations exports to Jordan increased by more than 20 percent from the previous year.²⁴ The 21 percent average duty on pharmaceutical products will be eliminated within nine years.²⁵ Additionally, strong intellectual property rights and investment measures offer greater security for pharmaceutical makers’ current and future investments in Morocco.

TEXTILES AND APPAREL

The owner of a medium-sized U.S. company that makes denim apparel in Morocco using U.S. fabric recently told the Department of Commerce that he will likely double his company’s output soon after the Agreement’s implementation. His story illustrates the benefits available to U.S. companies under the textiles and apparel chapter. The “yarn

²¹ U.S. Department of Commerce, Office of Trade and Economic Analysis

²² ISAC-12 Report to the President, the Congress, and USTR on the U.S.-Morocco FTA (April 2004)

²³ U.S. Department of Commerce, Office of Trade and Economic Analysis

²⁴ U.S. Census Bureau

²⁵ U.S. Department of Commerce, Office of Trade and Economic Analysis

forward” rule of origin, seen in this Agreement, helps ensure that only U.S. and Moroccan companies benefit from each other’s tariff reductions.

The Agreement requires qualifying apparel to contain either U.S. or Moroccan yarn or fabric and contains a temporary 30 million-square-meter allowance for apparel containing third-country content, which is phased out over ten years. Morocco accounted for little more than 0.1 percent of total U.S. textiles and apparel imports last year.²⁶ While U.S. industry does not see Morocco as a major competitor – Morocco has “neither the lowest cost[s] nor an immediate quick response capability...”²⁷ – it also sees limited opportunities for increasing textiles and apparel exports to Morocco, a country with a low GDP per capita and low apparel and sewn product consumption rate. U.S. exporters can expect some increase in demand from Moroccan consumers as tariffs, currently ranging from 2.5-50 percent, are eliminated within ten years.

AGRICULTURAL MARKET ACCESS

The United States exported nearly \$153 million in agricultural goods to Morocco in 2003. Key U.S. exports are corn, soybeans, soybean meal and, in some years, wheat. Morocco’s agricultural tariffs range from 2.5 percent (mostly on seeds for sowing) to 329 percent (certain sheep and goat items), with a simple average applied rate of about 50 percent. The Agreement provides U.S. farmers and ranchers with new tools to compete with Canada and the European Union in Morocco’s market, while complementing Morocco’s agriculture reform efforts and preserving economic and social stability in a sector of the Moroccan economy that employs almost half its population.

Beef

The Agreement provides new access to a market previously closed to U.S. beef. Morocco’s tariffs on beef are as high as 275 percent. The Agreement includes two preferential tariff rate quotas (“TRQs”), one for high quality beef and a second for standard quality beef. Under the TRQ for high quality beef, U.S. exporters will be able to immediately begin supplying hotels and restaurants for Morocco’s growing tourism industry. The high quality beef TRQ grows over time, and is phased out over eighteen years, permitting unlimited access. Morocco may establish an import licensing system for high quality beef, and the Agreement contains provisions to ensure that any such program does not impede the orderly fill of the TRQ. The TRQ for standard quality beef also grows over time. Morocco will accept export certificates from USDA’s Food Safety Inspection Service (“FSIS”) as the means for certifying compliance with standards on hormones, antibiotics, and other residues.

Corn and corn products

Morocco’s tariff on corn is 35 percent and its tariffs on corn products (*e.g.*, flour, meal, flakes, and starch) are as high as 60 percent. Morocco will reduce these tariffs by 50

²⁶ U.S. Department of Commerce, Office of Trade and Economic Analysis

²⁷ ISAC-15 Report to the President, the Congress, and USTR on the U.S.-Morocco FTA (April 2004)

percent in year one, and then eliminate the tariffs over the next five years in equal annual installments.

Dairy

Morocco's tariffs on dairy products range from 17.5 percent to 109 percent. Morocco will immediately eliminate its tariffs on pizza cheese and whey products. Tariffs on other cheeses will be eliminated in five or ten years depending on the product, on butter in eight years, and on milk powders in twelve or fifteen years.

Fruits, vegetables and nuts

Moroccan tariffs on fruits, vegetables, and nuts range from 17.5 percent to 52 percent, with many tariffs at 50 percent. Morocco will immediately eliminate its tariffs on cranberries, pistachios, pecans, and citrus fruit, including grapefruit. Tariffs on walnuts, grapes, pears, cherries, fresh potatoes, sweet corn, and frozen potato products will be phased out in five years. Tariffs on potato chip products will be eliminated immediately or in eight years. Tariffs on raisins, kidney beans, and other dried beans will be phased out over eight years. In addition, Morocco will create preferential TRQs for U.S. almonds and apples that will grow over time before the over-quota tariffs are phased out.

Poultry

The Agreement provides new access to Morocco's poultry market. Morocco's tariffs on most poultry are as high as 124 percent. The Agreement includes TRQs on chicken leg quarters and wings, whole turkeys and chickens, frozen chicken thigh meat and other frozen poultry meat that grow annually, as the over-quota tariffs are phased out. Morocco will immediately eliminate tariffs on mechanically de-boned chicken and chicken nuggets, strips, and patties. Tariffs on chicken sausages and mechanically de-boned chicken breast meat will be phased out over five years, and tariffs on chicken livers and certain processed turkey products will be phased out over ten years. Morocco will accept export certificates from FSIS as the means for certifying compliance with standards on antibiotics and other residues.

Processed foods and beverages

Morocco's tariffs on most processed food and beverage items are 40 or 50 percent. Morocco will immediately eliminate its tariffs on distilled spirits. Morocco will phase out tariffs on breakfast cereals and frozen pizza and quiches in five years, and tariffs on pet food and certain food preparations in eight years. Morocco's 52 percent tariff on wine will be phased out over ten years.

Soybeans, Other Oilseeds and Products

Morocco will immediately eliminate its 2.5 percent tariffs on soybeans and other oilseeds imported by processors for crushing, its 75.5 percent tariff on high-valued soybean meal used in human food, and its 2.5 percent tariffs on crude soybean and other vegetable oils.

Morocco employs a complicated differential duty on soybeans and other oilseeds imported for other forms of processing (*i.e.*, other than crushing). Morocco will eliminate this complicated tariff system immediately upon entry into force of the Agreement. Morocco's tariff on soybeans imported for other forms of processing is 22.5 percent, and its tariffs on other oilseeds (*e.g.*, rapeseed, colza seed, and sunflower seed) are as high as 37 percent. Morocco's tariff on soybean meal is 25 percent. Morocco will reduce these tariffs on soybeans and other oilseeds and soybean meal by 50 percent in year one, and then eliminate the tariffs over the next five years. Tariffs on other oilseeds items will be phased out over ten years.

Morocco's tariffs on soybean oil and other vegetable oils are 25 percent. Morocco will phase out these tariffs over ten years.

Wheat

Reflecting the sensitivity of its wheat sector, Morocco employs a complicated import system for durum and common wheat, including tariffs as high as 75 percent for durum wheat and 135 percent for common wheat. Under the Agreement, Morocco will create preferential TRQs for durum wheat and common wheat that will improve the ability of U.S. exporters to compete with Canada (in durum wheat) and the EU (in non-durum wheat). These TRQs could lead to a five-fold increase in U.S. wheat exports over recent levels.

SERVICES SECTORS

The Agreement will reinforce the ongoing development of Morocco's legal and regulatory reforms and development plans for many sectors of interest to U.S. service providers, including: telecommunications, electronic commerce ("e-commerce"), engineering and infrastructure services, environmental and energy services among them.

Morocco has taken on many fundamental commitments under the Agreement that will provide the basis for enhanced liberalization and opportunities for U.S. companies providing services. The Agreement provides a framework for transparency in Morocco's regulatory framework for services in three areas: (1) standard setting; (2) the regulatory application process; and (3) judicial, arbitral, and administrative procedures. These reinforce services and investment reforms already underway in many services sectors by lowering, phasing out, or making more transparent barriers to services trade and inward investment.

Telecommunications Services

Under the Agreement, Morocco makes several commitments to open its telecommunications services markets to U.S. providers. These include, among others: (1) a commitment to ensure access to and use of public telecommunications transport networks and services by all firms; (2) interconnection between suppliers of public telecommunication services; (3) non-discriminatory treatment by major suppliers; and (4) several transparency requirements.

The Moroccan 2000-2004 Economic and Social Development Plan identifies telecommunications as Morocco's most strategic sector. To achieve the objectives of integrating the country into the global economy, the Moroccan government adopted a modern institutional and legal framework with the creation of an independent regulatory agency. Morocco's "E-Maroc" aims at developing new technologies within education, administration, and the private sector with e-learning, e-commerce, and government-on-line. Morocco hopes to reach 10 million Internet users by 2010.

In 2002, the International Telecommunication Union classified Morocco as the fastest growing mobile market in the world. Cellular growth was 100 percent between 2001 and 2002. Foreign competition has caused the state-carrier Maroc Telecom to reduce prices and fees. Fixed lines increased from 872,000 in 1993 to 1,471,000 by the end of 1999. Fixed line density is low with 55 percent of the lines concentrated in the Rabat-Casablanca axis.

Financial Services (Banking, Insurance, and Securities)

U.S. financial service suppliers will have the right to establish subsidiaries and joint ventures in Morocco. Morocco already allows U.S. banks to establish branches and will allow insurance companies to establish branches after a four-year phase-in period. Morocco will also allow U.S.-based firms to offer services cross-border to Moroccans in areas such as reinsurance, financial information and data processing, and financial advisory services. After a two-year phase-in period, Morocco will allow U.S. insurance companies to offer marine, aviation, and transport insurance cross-border as well as insurance for goods in international transit. U.S. companies investing in Morocco's financial sector will enjoy the right to establish, acquire and operate investments in Morocco on equal footing with investors of other countries and, with a few specific exceptions, to that of Moroccan investors.

Tourism Infrastructure

Tourism, currently the second most important foreign exchange earner in Morocco, generated almost \$2.5 billion in 2002.²⁸ To capitalize on this strength, Morocco plans to concentrate on coastal tourism with six new beach resorts; offer special tax advantages for tourism infrastructure investment; promote rural tourism and sports and business events that will require an investment of \$3 billion; and host more regional conventions such as the 2003 Global Women's Summit. The Agreement provides disciplines for

²⁸ Government of Morocco, Ministry of Economy, Finance, Privatization, and Tourism (2002)

architectural and engineering service providers, and hotel management and information service providers will support opportunities for U.S. firms in these sectors.

Housing and Construction

In 2002, Morocco launched 49 housing, highway, and tourism projects valued at \$800 million under the Second Economic and Social Development Fund. The Moroccan government estimates the current housing shortage in urban areas to be one million units.²⁹ Only two construction services were excluded from disciplines under the Agreement: port and river dredging and the construction of national landmarks and religious buildings. U.S. firms should benefit from additional market opportunities in the housing and construction sectors.

Engineering and Consulting

Morocco needs a cadre of trained engineers to meet its development goals. It has agreed to national treatment disciplines as well as domestic regulatory and mutual recognition guidelines that will provide a framework for provision of these services by U.S. companies. Engineers have just embarked on a series of studies for a 24-mile tunnel under the Strait of Gibraltar, linking mainland Europe to Morocco. The potentially \$8 billion project will furnish U.S. engineers and consultants a large number of business opportunities.

Legal Services

The Agreement explicitly permits foreign legal consultancy.

Environmental Services

Water and Wastewater Treatment: Morocco has identified several aquifers (a natural resource already under pressure) used for drinking water that have been contaminated by high levels of nitrates. Improving the quality of Morocco's supply of water is a high priority for the government and provides opportunities for U.S. service providers with the knowledge and expertise to identify the best way to re-use water, build plants for potable water discharge treatment, and use simple techniques for water purification. The Agreement covers both the government procurement and private sector provision of such services.

Seawater Desalination: Providing safe drinking water to the countryside is a priority for Morocco. By 2010, Morocco hopes to satisfy the water distribution and sewage service demand of at least 80 percent of the rural population, partly through seawater desalination projects.³⁰ This will require high-technology solutions, such as reverse osmosis. The U.S. Trade and Development Agency funded a feasibility study to examine the possibility

²⁹ Government of Morocco, Ministry of Housing and Urbanism (2004)

³⁰ U.S. Foreign Commercial Service, Market Opportunities Report (2002)

of using a heat recovery system from a sulfuric acid plant distillation process to harness cooling water to generate energy for a desalination plant.

Municipal Waste and Air Pollution: Under a law that became effective in February 1999, Morocco's local authorities in charge of collection and disposal of household waste were given three years to insure the proper collection and disposal. Morocco is using international tenders to fulfill this objective, delegating the management of solid waste to private firms. Fez, Casablanca, and Marrakech have all prepared such tenders, including long-term concessions for the management of the landfills.

Airport Ground Support and Security

Sixteen of Morocco's 28 airports are international. A Moroccan government agency, ONDA, manages security and uses agreements between the government and private companies to do some of its work. U.S. engineering, construction, and design companies will benefit from the services trade liberalization and investment protections available through the Agreement.

Franchising

Franchising activity in Morocco appeals to a young Moroccan population with moderate capital and limited entrepreneurial expertise. It has become an attractive investment sector in Morocco thanks to its proximity to, and an Association Agreement with, the EU. Morocco has 19 American and 95 French and local franchises. Franchising activity in Morocco witnessed a growth rate of 243 percent between 1997 and 2003, a period in which franchise networks grew from 42 to 144, representing more than 560 retail units.³¹ Apparel, food, cosmetics, and furniture are the top four franchising sub-sectors in Morocco. The Agreement's strong investment and trademark protections will further encourage U.S. franchise expansion in Morocco.

Energy Services

Several factors will influence changes in the market in the next five years as rural electrification increases demand for renewable energies. This growth is expected to reach 30 percent over the next five-year period (2003-2008).

U.S. companies find that Morocco holds great potential for solar energy. Morocco uses 4 percent of the world's photovoltaic cells. Growth in this sector is expected to increase with a surge in rural electrification projects. Regarding wind energy, Morocco boasts several sites where the wind conditions are very favorable (3500 km of coastline). The average speed of the wind varies from less than 3 meters per second to more than 10 meters per second. Due to a large number of stock-farming zones, residues and waste from agribusiness industries, and dumps providing raw material for energy, Morocco holds great biomass potential. About 200 different sites have been identified for the

³¹ Government of Morocco, Office of Investment Promotion (2004)

construction of micro-hydraulic power plants, which can produce energy for rural areas.

Education

Under the Agreement, Morocco will be relatively open to the U.S. provision of higher education services. Morocco will however maintain the right to screen the heads of higher educational institutions and will require a local presence.

INVESTMENT

U.S. investment in Morocco is now concentrated in power generation, auto parts manufacturing, electrical cable production, and food processing. The Agreement will expand the significant protections already afforded to U.S. investors under the BIT. Under the Agreement, investors are guaranteed compensation (fair market value) should their assets be expropriated by the Moroccan government. Additionally, fair and transparent dispute settlement procedures will encourage U.S. companies to either enter or expand existing operations in Morocco.

INTELLECTUAL PROPERTY RIGHTS

U.S. industry has expressed a high level of satisfaction with the IPR protections of the Agreement. U.S. industry calls the Agreement's IPR chapter, "the most advanced IP chapter in any FTA negotiated so far" and "a precedential agreement for future FTAs."³² Morocco has agreed to protect IPR to a degree unseen in many other developing countries.

Some of the highlights for enhanced copyright, trademark, and patent protection and enforcement include:

Copyright

The Business Software Alliance ("BSA") reports that Morocco's business software piracy rate has fallen from 72 percent in 1997 to 61 percent in 2001. However, BSA estimates that the industry's losses from piracy in Morocco rose from \$4.6 million in 1997 to \$5.5 million in 2001.³³ Under the Agreement, U.S. software manufacturers could benefit from a requirement that all Moroccan government agencies use licensed software. The Moroccan government's use of legal software will encourage Moroccan businesses and individuals to do the same.

One U.S. media company estimates that piracy of American music in the Moroccan market is 95 percent.³⁴ Strong copyright and enforcement provisions in the Agreement's IPR chapter will help protect U.S. music labels as well as individual artists.

³² IFAC-3 Report to the President, the Congress, and USTR on the U.S.-Morocco FTA (April 2004)

³³ BSA Response to 67 Fed. Reg. 63,187 (October 2002)

³⁴ See Time Warner Inc.'s response to 67 Fed. Reg. 63,187 (October 2002)

Trademarks

In the Agreement, Morocco reaffirms its Trade-Related Aspects of Intellectual Property commitments. Under the Agreement, Morocco will also eliminate a requirement that would force U.S. companies to record their trademark licenses in order to establish the validity of their licenses, to assert any rights in a trademark, or for other purposes. The elimination of this requirement will enhance trademark protection for U.S. interests and licensees while removing administrative hurdles to this protection from the enforcement process. In general, stronger trademark protections will aid U.S. companies in Morocco for which trademark protection and enforcement are essential, including U.S. franchises and merchandisers.

Patents

U.S. patent owners will receive increased protection in Morocco as a result of the Agreement. The term of patented inventions will be adjusted upon request to compensate patent owners for unreasonable delays that occur in the granting of patents. The Agreement also provides that for patents covering pharmaceutical products, patent terms will be adjusted to compensate patent owners for unreasonable curtailment of patent term as a result of the marketing approval process. In addition, Morocco will improve the protection of undisclosed test data. This enhanced protection will prevent the unfair use of commercially valuable, undisclosed test, and other data.

Enforcement

The Agreement will improve the ability of U.S. businesses to benefit from and protect their creative works, brands, and inventions in Morocco, including by: (1) authorizing Morocco's law enforcement officials to take action against pirates and counterfeiters without waiting for complaints from rightholders; (2) authorizing the award of pre-established damages to rightholders, in amounts large enough to deter future infringement; (3) enabling authorities and rightholders to collect the evidence needed to track counterfeit and pirated products to their ultimate source; and (4) permitting the seizure and forfeiture of not only pirated and counterfeit products, but also the equipment and tools used to produce them.

Highlights of IPR Protections under the U.S.-Morocco FTA

Copyrights

- Provides terms of protection (*e.g.*, life of the author plus seventy years) for copyrighted works, consistent with growing international practice.
- Establishes strong anti-circumvention provisions to prohibit tampering with technologies that are designed to prevent piracy and unauthorized distribution over the Internet.
- Provides rules for the liability of Internet Service Providers (“ISP”) for copyright infringement, reflecting the balance struck in the U.S. Millennium Copyright Act between legitimate ISP activity and the infringement of copyrights.

Patents

- Provides for the adjustment of patent terms to compensate for delays in granting the original patent.
- Clarifies that test data and trade secrets submitted to a government for the purpose of product approval will be protected against unfair commercial use for a period of five years for pharmaceuticals and ten years for agricultural chemicals.
- Requires measures to prevent the marketing approval of pharmaceutical products that infringe patents, and to provide notice when the infringement or validity of a pharmaceutical patent is to be challenged.

Trademarks

- Requires a system to resolve disputes about trademarks used in connection with Internet domain names, which is important to address trademark cyber-piracy.
- Applies principle of “first-in-time, first-in-right” to trademarks and geographical indications, so that the first person who acquires a right to a trademark or geographical indication is the person who has the right to use it.

Enforcement

- Criminalizes end-user software piracy, providing strong deterrence against piracy and counterfeiting.
- Requires both Parties to authorize the seizure, forfeiture, and destruction of counterfeit and pirated goods and the equipment used to produce them. Ex officio action may be taken in border and criminal cases, thus providing more effective enforcement.

GOVERNMENT PROCUREMENT

Morocco’s nearly \$5 billion government procurement market accounts for approximately 17 percent of the country’s GDP. Morocco’s public companies and state-owned enterprises procure roughly \$2.9 billion in goods and services annually; the federal government and local governments purchase another \$1.4 billion and \$400 million, respectively.³⁵

The Agreement prohibits Moroccan government procurers from discriminating against U.S. firms, or favoring Moroccan firms, when purchasing more than \$175,000 in goods or services or \$6.725 million in construction services. Morocco has covered 30 central government entities in its government procurement offer. The list of 30 entities includes

³⁵ U.S. Department of Commerce, Office of Trade and Economic Analysis

Morocco's largest government procurers, such as the Ministries of Defense, Foreign Affairs, Interior, and the Prime Minister's Office.

The Agreement covers all of Morocco's provinces and prefectures – the U.S. equivalent of states. The provinces and prefectures have relatively modest budgets; however, they provide U.S. vehicle manufacturers, waste management providers, and engineering services providers with expanded export opportunities.

While Morocco has made impressive strides in privatization, much of the country's industry is still state-run. Government involvement in the Moroccan economy makes a strong government procurement chapter all the more valuable to U.S. goods and service providers. The Agreement opens up 136 Moroccan administrative and public bodies to U.S. contractors, including the National Office of Electricity, the National Office of Airports, the National Office of Potable Water, the National Railroad Office, and the Office of Ports Utilization. Finally, U.S. suppliers will benefit under the Agreement's transparent procurement procedures, advance public notice of purchases, and expedited bid reviews.

ELECTRONIC COMMERCE

The e-commerce chapter in the Agreement creates bright prospects in a yet-to-be developed market and protects the future interests of U.S. technology companies. In 2002, Morocco only had 500,000 personal computers and only 2.3 percent of Moroccans regularly used the Internet.³⁶ Increased Internet penetration and banking sector reform will create new e-commerce opportunities for U.S. firms.

The FTA ensures that digital products (*e.g.*, software, music, video, and text) will receive non-discriminatory treatment and will not be subject to customs duties. This provision makes permanent the moratorium on placing duties on online transactions that is now only voluntary or temporary in the WTO. In addition, the Agreement specifies that customs duties on digital products delivered on hard media will be based on the value of the media (*e.g.*, the disk), not on the value of the movie, music, or software contained on the disk. Finally, the Agreement affirms that any commitments made related to services in the Agreement will also extend to the electronic delivery of such services.

U.S. industry, as represented by the Industry Functional Advisory Committee on Electronic Commerce (IFAC-4) and the Industry Sector Advisory Committee on Electronics and Instrumentation for Trade Policy Matters (ISAC-5), has indicated strong support for the Electronic Commerce Chapter, as it is in the interests of U.S. companies and will further their goals in the WTO and assist in establishing a barrier-free global approach to the trade of digital products.³⁷

³⁶ Source: International Technology Union IT report (May 2004)

³⁷ IFAC-4 Report to the President, the Congress, and USTR on the U.S.-Morocco FTA (March 2004)

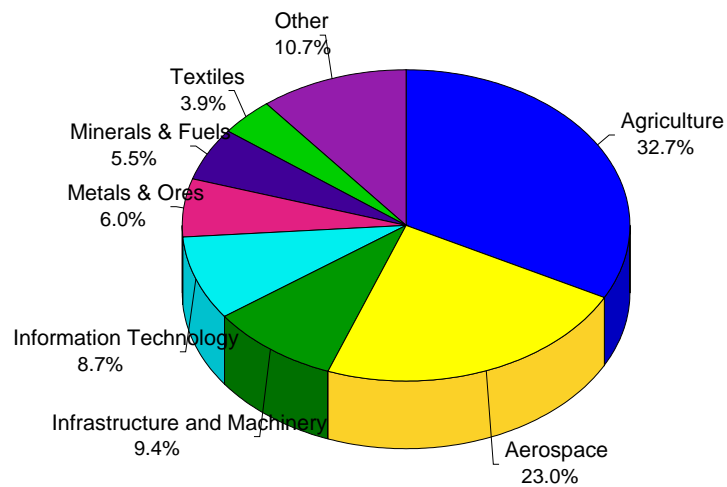
APPENDICES

Top 10 U.S. Exports to Morocco in 2003 (Millions of U.S. Dollars)

Description	2003
AIRCRAFT	131
CEREALS	75
GRAIN, SEED, FRUIT	57
MACHINERY	38
MINERAL FUEL	27
ELECTRICAL MACHINERY	20
OPTICAL, MEDICAL INSTRUMENTS	14
FATS AND OILS	14
SPECIAL OTHER	13
SALT, SULFUR, EARTH, STONE	9

TOTAL 2003 U.S. EXPORTS TO MOROCCO 465

Source: World Trade Atlas



State Merchandise Exports Totals to Morocco, 1999-2003
Ranked by 2003 Export Value (Thousands of Dollars)

State	1999	2000	2001	2002	2003 ▼
U.S. Total	573,581	524,694	286,095	565,509	465,124
WASHINGTON	130,074	137,514	3,494	280,855	111,815
LOUISIANA	88,118	90,732	56,671	80,926	91,842
CALIFORNIA	20,459	20,899	23,256	23,998	27,162
NEW YORK	20,661	21,643	19,711	30,284	27,160
TEXAS	34,400	29,487	23,031	20,457	23,055
VIRGINIA	55,483	14,089	15,751	9,253	22,780
WISCONSIN	10,585	8,503	12,543	10,148	18,121
MINNESOTA	5,339	9,765	5,510	9,109	13,601
PENNSYLVANIA	3,410	10,621	1,423	2,371	12,402
WEST VIRGINIA	0	0	0	0	10,465
FLORIDA	6,274	10,345	9,311	7,894	8,469
NORTH CAROLINA	64,638	4,764	6,574	4,408	8,277
GEORGIA	8,968	7,275	6,432	5,748	7,209
INDIANA	3,061	3,407	4,304	2,006	5,528
DISTRICT OF COLUMBIA	1,378	884	522	6,446	5,310
KANSAS	346	60	202	2,391	5,217
OREGON	2,004	6,064	2,585	1,505	5,126
SOUTH CAROLINA	6,023	2,720	2,072	3,709	4,978
MARYLAND	3,161	7,914	4,331	4,873	4,852
OHIO	4,458	4,288	10,977	2,534	4,695
NEW JERSEY	8,445	8,058	9,515	7,951	4,073
ILLINOIS	7,543	18,797	7,942	9,743	3,594
MICHIGAN	577	2,101	1,336	2,196	3,057
TENNESSEE	6,794	3,779	2,531	1,691	2,125
MASSACHUSETTS	3,432	2,896	4,580	3,219	2,073
MISSISSIPPI	1,038	2,137	1,193	863	1,910
ARIZONA	7,736	3,828	212	993	1,769
MISSOURI	2,596	668	2,079	2,009	1,710
ALABAMA	855	4,560	6,545	663	1,458
NEBRASKA	839	211	86	67	1,402
OKLAHOMA	4,409	103	100	497	1,305
CONNECTICUT	16,700	4,966	4,338	1,305	813
ARKANSAS	461	475	592	281	794
IOWA	1,358	361	1,519	197	772
PUERTO RICO	667	584	4,513	1,002	573
DELAWARE	1,523	846	18	331	457
COLORADO	3,675	202	652	652	397
NEW HAMPSHIRE	0	29	504	61	320
MAINE	214	68	100	117	318
RHODE ISLAND	1,008	2,695	2,258	188	201
UTAH	66	505	70	32	168
VERMONT	76	49	83	105	154
IDAHO	130	161	4	388	117
NORTH DAKOTA	6	191	166	29	81
KENTUCKY	196	135	76	53	42
NEVADA	92	192	96	4	19
NEW MEXICO	336	54	94	165	19
SOUTH DAKOTA	0	0	91	0	17
VIRGIN ISLANDS	0	0	0	3	0
ALASKA	0	0	20	0	0
WYOMING	15	0	0	0	0